

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 91-35, AND PROVIDING FOR THE LICENSING AND REGULATION OF THE BUSINESS OF RECOVERING, TOWING, REMOVING AND STORING OF MOTOR VEHICLES; PROVIDING FOR THE TOWING OF VEHICLES OFF CERTAIN PROPERTY AND MAXIMUM CHARGES; PROVIDING FOR PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, numerous persons and firms in Palm Beach County engage in the business of recovering, towing and storing of motor vehicles; and

WHEREAS, such towing services frequently must be provided with or without the prior consent of the vehicle owner, or under circumstances which prevent negotiating the charges, terms and conditions for the towing service, often resulting in disagreements and complaints between vehicle owners and providers of towing services; and

WHEREAS, the vehicles and equipment used to tow vehicles across the thoroughfares of Palm Beach County and the manner in which towing is conducted are of considerable significance to the health, safety and welfare of the owners of towed vehicles and of the residents and visitors in Palm Beach County; and

WHEREAS, Sections 125.0103(b), 166.043(b) and 715.07(2), Florida Statutes, empowers the Board of County Commissioners to enact regulations pertaining to the towing industry, including the authority to regulate rates when vehicles are towed or removed from private property.

WHEREAS, the Ordinance is amended to clarify the licensing procedures and to expand the enforcement authority.

WHEREAS, the Board of County Commissioners of Palm Beach County finds it to be in the best interest of the County, its citizens and its visitors to license and regulate the business of providing such services within Palm Beach County, to assure that all who provide the service are fit and competent to do so and that such services are delivered in a safe and efficient manner.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:

1 **SECTION 1. Definitions.**

2 A. For the purposes of this ordinance, the following
3 definitions shall apply:

- 4 1) "Administrative Fee" shall mean the fee that is
5 charged for title and lien search, advertising
6 costs, and notification of lienholder and owner of
7 the whereabouts and charges against a vehicle or
8 vessel.
- 9 2) "Commission" shall mean the Board of County
10 Commissioners of Palm Beach County, Florida.
- 11 3) "Department" shall mean the Palm Beach County
12 agency designated to implement, enforce, and
13 monitor this ordinance.
- 14 4) "Director" shall mean the Department Director, or
15 his or her designee.
- 16 5) "Express Instruction" shall mean a clear, definite
17 and explicit request: 1) made in writing by a
18 police officer to recover, tow, remove, or store a
19 specific and individual vehicle which is disabled
20 or abandoned or parked without authorization, or
21 whose operator is unable or unwilling to remove the
22 vehicle; 2) made in writing by a property owner or
23 duly authorized agent of the property owner, as
24 specifically referenced on the written contract
25 between the property owner and licensee, to
26 recover, tow, remove or store a specific and
27 individual vehicle parked without permission of the
28 property owner; or 3) made by telephone, in person,
29 or in writing by a vehicle owner or the authorized
30 driver to recover, tow, remove or store a specific
31 and individual vehicle which is in the lawful
32 control of the vehicle owner or authorized driver
33 requesting the towing service. Every request made
34 in writing or in person must indicate the date and

1 time of the instruction and must be signed by the
2 police officer, the property owner or agent, or the
3 vehicle owner or authorized driver in the presence
4 of the person providing the requested service.
5 Every request made by telephone must also be
6 documented with the date and time of the call.

7 6) "Extra Labor" shall mean the amount of manpower that
8 is reasonably needed above and beyond the operator
9 of the towtruck to safely effect the removal of a
10 vehicle or its load from the scene of an accident
11 or other incident requiring a tow. Extra labor
12 shall also include "load and offload" time, such
13 as when special circumstances arise in which
14 additional time is necessary to "offload" the
15 vehicle at the storage facility or other location.
16 All special "load and offload" circumstances must be
17 approved in writing by the officer on the scene.

18 7) "For Compensation" shall mean for money, property,
19 service or anything else of value.

20 8) "Industry" shall mean the business of recovering,
21 towing or removing vehicles and providing such
22 vehicle storage services as may be associated
23 therewith.

24 9) "License" shall mean the certificate or document
25 which allows a person to engage in the activity of
26 recovering, towing, removing and storing of
27 vehicles ~~for compensation~~ in Palm Beach County. As
28 used in this ordinance, "license" shall not mean a
29 municipal occupational license or a county
30 occupational license. Any reference to "towing
31 license" means "license".

32 10) "Operate" shall mean any person who provides ~~for~~
33 ~~compensation~~ the services of recovering, towing, or
34 removing vehicles and any vehicle storage services
35 associated therewith.

- 1 11) "Operator" shall mean any person who provides ~~for~~
2 ~~compensation~~ the services of recovering, towing, or
3 removing vehicles and any vehicle storage services
4 associated therewith. Includes without distinction
5 the owning entity of a towing firm and the driver
6 of a towtruck.
- 7 12) "Permit" shall mean the certificate or document
8 which allows a person to drive or operate a towing
9 vehicle.
- 10 13) "Person" shall mean any natural person, firm,
11 partnership, association, corporation or other
12 entity of any kind whatsoever.
- 13 14) "Place of business" shall apply to the licensee that
14 provides non-consent towing, removal or recovery
15 services. Such towing business licensee shall have
16 a sign that it clearly and conspicuously identifies
17 the business to the public; the licensee must
18 maintain office space and the office must have at
19 least one person on duty from 8:00 a.m. until 6:00
20 p.m., Monday through Friday, to answer telephone
21 calls and to be open to serve the public; however,
22 the office may be closed to observe the following
23 holidays (on the days observed): New Year's Day,
24 Martin Luther King, Jr.'s Birthday, Washington's
25 Birthday (President's Day), Memorial Day,
26 Independence Day, Labor Day, Columbus Day, Veteran's
27 Day, Thanksgiving Day, Christmas Day; the place of
28 business shall maintain a telephone communication
29 system to answer telephone calls from the public
30 twentyfour (24) hours a day; and the licensee shall
31 maintain at least one towing vehicle and one towing
32 vehicle operator at the place of business.
- 33 14) 15) "Property Owner" shall mean that person who
34 exercises dominion and control over real property,
35 including but not limited to, the legal

1 titleholder, lessee, designated representative of a
2 condominium or homeowner's association or any
3 person authorized to exercise or share dominion and
4 control over real property; provided, however, that
5 "property owner" shall not mean or include a person
6 providing towing services ~~for compensation~~ within
7 the purview of this ordinance.

8 ~~15)~~ 16) "Recover" shall mean to take possession of a
9 vehicle and its contents and to exercise control,
10 supervision and responsibility over it.

11 ~~16)~~ 17) "Recovery" shall mean the removal of a vehicle
12 from a canal or other body of water, a wooded area
13 not readily accessible to a roadway (i.e., within a
14 standard cable length) or when a vehicle is buried.

15 ~~17)~~ 18) "Registration" shall mean an identifying decal
16 issued by the Director and appropriate for display
17 on a towtruck used by a person licensed under this
18 ordinance.

19 ~~18)~~ 19) "Regulation" shall mean a rule set forth in
20 this ordinance, the violation of which is sufficient
21 grounds for fines; suspension or revocation of a
22 towing license; civil damages, court costs and
23 attorneys fees; and specified criminal penalties.

24 ~~19)~~ 20) "Remove" shall mean to change the location of
25 a vehicle by towing it.

26 ~~20)~~ 21) "Revoke" shall mean to annul and make void the
27 license of a person engaged in the business of
28 providing towing services.

29 ~~21)~~ 22) "Store" shall mean to place and leave a towed
30 vehicle at a location where the person providing the
31 towing services exercises control, supervision and
32 responsibility over the vehicle. The storage
33 facility must be fenced by a fence of a minimum
34 height of six feet, lighted and locked for the
35 protection of vehicles and property.

1 22) 23) "Tow" shall mean to haul, draw or pull along a
2 vehicle by means of another vehicle equipped with
3 booms, car carriers, winches or similar equipment.
4 23) 24) "Towing" shall mean the act of moving one
5 vehicle from one point to another (including hook-
6 up, lift, and transport) using a vehicle commonly
7 referred to as a towtruck or a car carrier.
8 24) 25) "Towtruck" shall mean any motor vehicle used
9 to tow or haul or carry or to attempt to tow or haul
10 or carry another motor vehicle. ~~for compensation.~~
11 25) 26) "Trade Name" shall mean any name under which a
12 person, corporation, partnership, association, firm
13 or any other entity operates its business.
14 26) 27) "Vehicle" shall mean an automobile, boat,
15 truck, bus, trailer, semitrailer, truck tractor and
16 semitrailer combination, recreational unit primarily
17 designed as temporary living quarters which either
18 has its own motive power or is mounted on or drawn by
19 another vehicle, or any other mobile item using
20 wheels and being operated on the roads of Palm Beach
21 County, which is used to transport persons or
22 property and is propelled by power other than
23 muscular power; provided, however, that the term does
24 not include bicycles, mopeds, traction engines, road
25 rollers or vehicles which run only upon a track.
26 27) 28) "Waiting Time" shall mean the amount of time
27 spent at a scene when a towtruck and operator has
28 been summoned and is on scene but unable to proceed
29 through no fault of the towtruck operator.

30 SECTION 2. TOWTRUCK CLASS SPECIFICATIONS.

- 31 A. Class A Truck or car carrier - ~~Maximum~~ Minimum Ratings
- 32 1) Gross Vehicle Weight Ratings..... 10,000 Lbs.
- 33 2) ~~Gross Combination Weight Ratings..... 18,000 Lbs.~~
- 34 2) 3) Boom Capacity..... 8,000 Lbs.
- 35 3) 4) Winching Capacity..... 8,000 Lbs.

1	4) 5+	Cable Size and Length.....	3/8"X100'
2	5) 6+	Wheel Lift Retracted Rating.....	6,000 Lbs.
3	6) 7+	Wheel Lift Extended Rating.....	3,000 Lbs.
4	7) 8+	Tow Sling Safe Lift.....	3,500 Lbs.
5	8) 9+	Safety Chains (2 each).....	3/8" High Test
6	9) 10+	Cab to Axle Dimension.....	58" 60"
7	B. Class B. Towtruck - Maximum <u>Minimum</u> Ratings		
8	1)	Gross Vehicle Weight Ratings.....	18,000 Lbs.
9	2)	Gross Combination Weight Ratings.....	30,000 Lbs.
10	2) 3+	Boom Capacity.....	16,000 Lbs.
11	3) 4+	Winching Capacity.....	16,000 Lbs.
12	4) 5+	Cable Size and Length.....	1/2"X200'
13	5) 6+	Wheel Lift Retracted Rating.....	10,500 Lbs.
14	6) 7+	Wheel Lift Extended Rating.....	8,500 Lbs.
15	7) 8+	Tow Sling Safe Lift Rating.....	8,500 Lbs.
16	8) 9+	Safety Chains (2 each).....	5/16" Alloy
17	9) 10+	Cab to Axle Dimension.....	84" 60"
18	C. Class C Towtruck - Maximum <u>Minimum</u> Ratings		
19	1)	Gross Vehicle Weight Ratings.....	30,000 Lbs.
20	2)	Gross Combination Weight Ratings.....	80,000 Lbs.
21	2) 3+	Boom Capacity.....	50,000 Lbs.
22	3) 4+	Winching Capacity.....	50,000 Lbs.
23	4) 5+	Cable Size and Length.....	5/8"X200'
24	5) 6+	Wheel Lift Retracted Rating.....	25,000 Lbs.
25	6) 7+	Wheel Lift Extended Rating.....	12,000 Lbs.
26	7) 8+	Tow Sling Safe Lift Rating.....	12,000 Lbs.
27	8) 9+	Safety Chains (2 each).....	1/2" Alloy
28	9) 10+	Cab to Axle Dimension.....	144"
29	D. Class D. Towtruck - Maximum <u>Minimum</u> Ratings		
30	1)	Gross Vehicle Weight Ratings.....	58,000 Lbs.
31	2)	Gross Combination Weight Ratings.....	120,000 Lbs.
32	2) 3+	Boom Capacity.....	70,000 Lbs.
33	3) 4+	Winching Capacity.....	70,000 Lbs.
34	4) 5+	Cable Size and Length.....	3/4"X250'
35	5) 6+	Wheel Lift Retracted Rating.....	45,000 Lbs.

6) 7)	Wheel Lift Extended Rating.....	15,000 Lbs.
7) 8)	Tow Sling Safe Lift Rating.....	12,000 Lbs.
8) 9)	Safety Chains (2 each).....	1/2 Alloy
9) 10)	Cab to Axle Dimension.....	180"

SECTION 3. Towing License Required.

- A. It shall be unlawful for any person ~~for compensation or as part of a regularly conducted business activity~~ to recover, tow or remove a vehicle or provide storage in connection therewith or to cause or permit any other person ~~for compensation~~ to recover, tow or remove a vehicle or provide storage in connection therewith or to advertise tow/storage services without first obtaining and maintaining a current and valid license pursuant to the provisions of this ordinance, providing, however, that a property owner without license may cause or permit the removal of a vehicle from his property in accordance with the provisions of this ordinance. The provisions of this ordinance do not apply to persons who use a towing vehicle to transport their vehicles solely for personal, family, household or recreational use. Any print advertisement of tow/storage services shall include the license number issued by the Department.
- B. Nothing in this ordinance shall be construed to prohibit the discharge or storage of a vehicle lawfully recovered, towed or removed in another county and lawfully transported into Palm Beach County; nor shall anything in this ordinance be construed to prohibit a vehicle owner or authorized agent from requesting the services of a towing business not regularly doing business in Palm Beach County, to remove the owner's vehicle to a location outside Palm Beach County; nor shall anything in this ordinance prohibit a duly licensed towing company from another recognized county from towing in another recognized county.

1 C. Nothing in this ordinance shall be construed to
2 prevent a person from working in an employment
3 relationship for another person holding a valid license
4 under this ordinance; provided, however, that any person
5 who is an independent contractor and not an employee of
6 a licensed person is also subject to all requirements and
7 provisions of this ordinance.

8 **SECTION 4. Application for Towing License; Fees.**

9 A. Every application for a towing license shall be in
10 writing, signed and verified by the applicant, and filed
11 with the Department together with an investigative and
12 processing fee established by resolution of the
13 Commission. The application fee shall be deposited in
14 a separate County fund and shall be used exclusively to
15 accomplish the purposes of this ordinance. The fee shall
16 be assessed against each applicant. The statements
17 contained in the application shall become a part of the
18 towing license and may be modified only in accordance
19 with the provisions of this section.

20 B. Every application for a towing license shall be on a form
21 prescribed by the Director and shall contain information,
22 including but not limited to:

23 1) Sufficient information to identify the applicant,
24 including but not limited to, full legal name, date
25 of birth, telephone numbers, all business the place
26 of business and residence addresses, a copy of the
27 applicant's Palm Beach County Occupational License,
28 and driver's license number. If the applicant is a
29 corporation, the foregoing information shall be
30 provided for each corporate officer, director,
31 resident agent and shareholder. If the applicant
32 is a partnership, the foregoing information shall
33 be provided for each general and limited partner.
34 Post office box addresses shall not be accepted.

35 2) Documentation demonstrating that all corporate or

1 partnership applicants are qualified to do business
2 under the laws of Florida.

3 3) A list of all persons with any ownership interest
4 in the applicant who have previously been denied a
5 license from this or any other jurisdiction,
6 including a copy of the applicant's current
7 Fictitious Name Registration with the State of
8 Florida.

9 4) Any trade name under which the applicant operates,
10 intends to operate, or has previously operated, and
11 a description of proposed, existing and previous
12 towing vehicles' colors and markings.

13 5) A description of the applicant's operational
14 procedure, which shall include, but not be limited
15 to, the following: location and description of all
16 places of business; a description of the plan and
17 facilities for maintaining towing vehicles and
18 equipment; a description of the system for handling
19 complaints and accidents; and a description of
20 applicant's communication system.

21 6) A description of services proposed to be provided,
22 including, but not limited to, days and hours of
23 operation and types of towing and storage services
24 to be provided.

25 7) A record of all crimes any way related to motor
26 vehicles of which the applicant has been
27 adjudicated guilty or of which adjudication has
28 been withheld within the last five (5) years
29 preceding the date of the application. In the case
30 of a corporate or partnership applicant, all such
31 information shall be provided by all corporate
32 officers and directors, or partners, as the case
33 may be.

34 8) Proof of insurance as required in Section 6 of
35 this ordinance.

- 9) A notarized signature of each individual applicant, the signature of the president or vice-president of a corporate applicant, and the signature of all the general partners of a partnership applicant.
- 10) An agreement on the part of the applicant to abide by the provisions of this ordinance and the laws of the State of Florida.
- 11) Such additional information about the applicant as the Director may deem appropriate.

SECTION 5. Issuance of License; Renewal.

- A. The Director is empowered to issue licenses to applicants which have met the standards and requirements for a towing license, and to promulgate administrative procedures for the application for and issuance of such licenses, and further, for the denial, revocation, and suspension of such licenses.
- B. The Director shall review and investigate each application for a towing license and shall reject any application that is incomplete or untrue in whole or in part, or which fails in any way to meet the requirements of subsection C. of this section.
- C. No towing license shall be issued to an applicant or renewed unless the applicant has:
 - 1) Filed with the Director a true, correct and complete application on the form prescribed by the Department, including all proofs of required insurance;
 - 2) Paid the initial or renewal application fee; and
 - 3) Submitted to a background investigation resulting in a determination by the Director that:
 - (a) The applicant neither possesses a suspended or revoked driver's license, nor has its towing license previously been revoked by action of the Director or any other jurisdiction within two (2) years of the date of application, or

1 has outstanding and unsatisfied civil
2 penalties imposed due to violations of this
3 ordinance or a similar ordinance of another
4 jurisdiction.

5 (b) The applicant has neither pled nolo
6 contendere nor pled guilty or been convicted
7 of: a crime relating to motor vehicles or any
8 crime designated as a felony; any crime
9 involving the sale or possession of controlled
10 substances as defined by the Florida Rico Act,
11 §893.03, Florida Statutes, unless the civil
12 rights of such individual or applicant have
13 been restored; or in the case of conviction of
14 a crime relating to motor vehicles, that such
15 person has successfully completed all
16 sentences of incarceration, probation,
17 required rehabilitation activities, and
18 payments of all fines and penalties imposed.

19 (c) Each corporate or partnership applicant is
20 qualified under the laws of Florida to do
21 business under the trade name or names under
22 which it has applied for a license.

23 (d) No fraud or willful or knowing misrepresen-
24 tation or false statement was made in the
25 application.

26 (e) No judgment against the applicant arising out
27 of the activity of recovery, towing or
28 removing a vehicle or providing storage in
29 connection therewith remains unsatisfied,
30 unless a stay or reversal of the judgment is
31 procured through the courts.

32 D. Any applicant who fails to furnish to the Department a
33 true and complete application, including all of the
34 requested supporting documentation, within 30 days of the
35 filing of the application shall be denied a license.

1 Such an applicant may refile for the license only one
2 additional time by again paying the full and complete
3 license application and vehicle decal fees and
4 immediately furnishing the requested information or
5 documentation to complete the application. The failure
6 to refile and pay the appropriate fees and/or to provide
7 the requested information within the time specified
8 herein will result in the denial of the license
9 application for that licensing period.

10 E. D. Each towing license shall be on a form printed with the
11 requirements described herein and shall be signed by the
12 Director. Each towing license shall contain, at a
13 minimum, the name and address of the applicant, the dates
14 the license remains in effect, and a statement of such
15 additional terms and conditions, restrictions and
16 limitations as were authorized in the application and
17 approval process.

18 F. E. All towing licenses shall be renewed annually. As a part
19 of the renewal process, the original application shall be
20 updated and verified by the applicant. Each updated
21 renewal application shall be submitted at least sixty
22 (60) days prior to expiration of the current license and
23 shall be accompanied by a fee which shall be established
24 by resolution of the Commission. All ~~renewal application~~
25 ~~fees~~ monies received shall be deposited in a separate
26 Palm Beach County fund and shall be used exclusively to
27 accomplish the purposes of this ordinance. All towing
28 licenses which are not renewed shall automatically expire
29 upon the ~~one (1) year anniversary of the date of issuance~~
30 expiration date of the license, as stated on the license,
31 and all recovery, towing, removing and storage services
32 permitted thereunder shall cease immediately. The
33 Director shall deny each renewal application that is not
34 timely, is incomplete, is untrue in whole or in part, is
35 unaccompanied by the required fee, or results in a

determination by the Director that the applicant has failed to satisfy the requirements of subsection C 3) of this section.

G. F. A license issued or renewed pursuant to the provisions of this section shall not be transferable, nor shall the ownership structure of the licensee be so modified as to constitute a change in the control or ownership of the license, without the prior written approval of the Director. The towing license issued by the Department shall remain the property of Palm Beach County and shall be used only under the authority of the Department.

H. The applicant who files his renewal application after the filing deadline date established by the Department shall pay the following fees in addition to the regular license and vehicle decal fees and prior to the issuance of the license and vehicle decal(s):

- 1) One (1) to ten (10) days after the filing deadline: \$100.00 additional for the license and \$50.00 additional for each towing vehicle decal;
- 2) Eleven (11) to twenty (20) days after the filing deadline: \$150.00 additional for the license and \$75.00 additional for each towing vehicle decal;
- 3) Twentyone (21) to thirty (30) days after the filing deadline: \$175.00 additional for the license and \$100.00 additional for each towing vehicle decal;
- 4) Over thirty (30) days after the filing deadline: \$325.00 additional for the license and \$175.00 additional for each towing vehicle decal.

I. H. There shall be no numerical limit on licenses issued pursuant to the provisions of this section.

SECTION 6. Insurance Requirements.

A. It shall be unlawful for any person for compensation to recover, tow, or remove a vehicle or to provide vehicle storage services in connection therewith until that person has filed with the Director and maintains in

1 effect, for each towing vehicle operated by that person,
2 an insurance policy or policies or certificates of
3 issuance which shall indemnify or insure such person for
4 its liability, at a minimum, as follows:

- 5 1) For vehicles with a gross vehicle weight of less
6 than 15,000 pounds: automobile liability insurance
7 covering each vehicle in an amount not less than
8 \$50,000 per person, \$100,000 per occurrence for
9 bodily injury, and \$25,000 per occurrence for
10 property damage or \$100,000 combined single limit.
- 11 2) For vehicles with a gross vehicle weight of 15,000
12 pounds or more, but less than 30,000 pounds:
13 automobile liability insurance covering each
14 vehicle in an amount not less than \$100,000 per
15 person, \$300,000 per occurrence for bodily injury,
16 and \$100,000 per occurrence for property damage or
17 \$300,000 combined single limit.
- 18 3) For vehicles with a gross vehicle weight of 30,000
19 pounds or more: automobile liability insurance
20 coverage covering each vehicle in an amount not
21 less than \$300,000 per person, \$500,000 per
22 occurrence for bodily injury, and \$100,000 per
23 occurrence for property damage or \$500,000 combined
24 single limit.

25 B. All insurance policies required shall be issued by
26 insurance companies authorized and qualified to do
27 business in the state of Florida. No policy shall be
28 accepted which is of less than six (6) months duration.
29 Each policy shall be endorsed to provide for (30) thirty
30 days notice by registered mail to Department of any
31 material change, cancellation or expiration of the
32 policy.

33 C. Failure to provide current certificates of insurance or
34 policies or failure to maintain the required coverage for
35 each vehicle shall result in an automatic suspension of

1 the towing license, which shall remain in effect until
2 proof of compliance with this section is submitted to the
3 Director and approved.

- 4 D. Insurance requirements do not apply to governmental
5 agencies which are self-insured.

6 SECTION 7. Vehicle Registration; Vehicle Standards.

- 7 A. It shall be unlawful to recover, tow or remove a vehicle
8 ~~for compensation~~ or to store it in connection therewith
9 unless the towtruck used to provide such service displays
10 in the ~~upper~~ lower left corner of the front window a
11 current decal issued by Department. The vehicle decal
12 remains the property of the Department and Palm Beach
13 County and can be used only under the authority of the
14 Department.

- 15 B. The Director is authorized to issue to current licensees
16 decals for each separate towtruck upon application by the
17 licensee and completion of the following:

- 18 1) Inspection of vehicle records by personnel
19 authorized by Department to determine ownership, or
20 first-party lease held by the licensee, of the
21 towtruck.
- 22 2) Inspection by personnel authorized by Department to
23 assure that the towtruck clearly displays on the
24 exterior of the driver and passenger sides in
25 letters at least three (3) inches high, permanently
26 affixed and in contrasting colors, the licensee's
27 name, address, telephone number and license number.
- 28 3) The submission of an affidavit to the Department
29 assuring that the towtruck is commercially
30 manufactured and meets the specifications listed
31 herein and is in safe operating condition.
- 32 4) An application form completed by the licensee and
33 approved by the Director which correctly indicates
34 the year, make, model, and vehicle identification
35 number, and the State of Florida motor vehicle

1 license plate number and the expiration date of the
2 license plate of the towtruck.

3 5) - Payment of a registration fee which has been
4 established by resolution of the Commission and
5 deposited and used in the same manner as other fees
6 and charges under this ordinance.

7 6) Inspection of the vehicle by personnel authorized by
8 the Department to ensure that the vehicle meets the
9 minimum vehicle safety and equipment standards
10 established by the Department.

11 C. It shall be unlawful for any licensee to alter or
12 transfer ownership of any decal. If a towtruck is
13 destroyed or sold, the licensee must remove said decal
14 and surrender the remains to Department.

15 D. Additional towtrucks acquired during the licensing year
16 will receive a decal at a prorated fee.

17 E. Decals shall be issued in numerical order, and each decal
18 issued shall display its assigned number. Decals shall
19 be renewable annually in the same manner as original
20 application is made.

21 F. The decal for each towtruck may be affixed by personnel
22 authorized by Department and shall at all times be
23 displayed and available for inspection by any police
24 officer or by personnel authorized by Department to
25 perform enforcement duties.

26 G. Replacement or duplicate decals may be authorized by the
27 Director upon the completion of an application and
28 notarized statement of the license holder stating that
29 such a replacement or duplicate decal is necessary and
30 stating the reasons for such a request, along with a
31 nominal charge.

32 SECTION 8. Manifest, Towing Invoice, or Tow Sheet.

33 A. It shall be unlawful for any person for compensation to
34 recover, tow or remove a vehicle or provide storage in
35 connection therewith unless the person providing such

1 service shall maintain in his possession a manifest,
2 towing invoice, or tow sheet or dispatch records which
3 shall include, but not be limited to, the following
4 information:

- 5 1) Name of the licensee and of the natural person
6 physically providing the service;
- 7 2) Decal number of the towtruck used to provide the
8 service;
- 9 3) Date and time that the service was requested;
- 10 4) Name, address and telephone number of the person
11 requesting the service;
- 12 5) Date and time that the service was initiated;
- 13 6) Location and time of arrival at the location at
14 which the service originated;
- 15 7) Destination to which the vehicle being provided the
16 service is taken and the time of arrival at the
17 destination;
- 18 8) Description of vehicle being provided the service,
19 including make, model, year, color, vehicle
20 identification number and license plate number, if
21 any;
- 22 9) Description of services provided; and
- 23 10) Cost(s) for the service(s) provided;
- 24 11) Any and all "load and offload" charges, including
25 the name, badge number, and agency of the officer on
26 the scene who approved these additional charges,
27 including a detailed explanation of the services
28 rendered which necessitated this charge.

29 B. Each manifest, towing invoice, or tow sheet shall be
30 available for inspection upon demand by police officers,
31 or by personnel authorized by Department to perform
32 enforcement duties, at any time during the period of
33 recovery, towing or removal of a vehicle.

34 **SECTION 9. Towing Safety Standards.**

35 It shall be unlawful for any person ~~for compensation~~ to

1 recover, tow or remove a vehicle with a towtruck in a manner which
2 violates the standards for use of such vehicle as set forth herein.

3 It shall be unlawful to operate a towtruck if the vehicle has
4 failed to pass the critical items specified on any vehicle
5 inspection performed by personnel authorized by the Department or
6 has failed to correct other inspection deficiencies within the time
7 period specified by the Department or is operating with critical
8 safety deficiencies or without the proper insurance coverage. When
9 a vehicle has failed to pass inspection or correct such inspection
10 deficiencies or is operating with critical safety deficiencies or
11 without the proper insurance coverage, personnel authorized by the
12 Department shall affix to the upper left corner of the vehicle
13 windshield a notice stating the date of the inspection or action
14 and the reasons for its inspection rejection or action. It shall
15 be unlawful to for the licensee or any other person other than
16 personnel authorized by the Department to remove this notice form
17 the windshield of the vehicle. This notice shall remain the
18 property of the Department and Palm Beach County.

19 **SECTION 10. Records Required.**

20 Each licensee under this ordinance shall maintain accurate and
21 complete records of all operating information as Department may
22 require, including but not limited to, manifests, towing invoices,
23 or tow sheets for services rendered, and records of payments for
24 services rendered. Such records shall be maintained for at least
25 three (3) years. The Department shall be granted access to these
26 records for inspection and/or the removal of such records for the
27 purpose of copying, during regular business hours, upon five (5)
28 days prior notice. All records and information inspected and not
29 copied shall be confidential, except that records may be copied and
30 made public for the purpose of license suspension or revocation
31 proceedings.

32 **SECTION 11. Anti-Discrimination.**

33 No licensee shall refuse or neglect to provide vehicle
34 recovery, towing or removal services or storage services in
35 connection therewith to any person requesting such service able and

1 willing to pay for such services, on account of that person's race,
2 sex, religion, national origin, age, marital status or handicap.

3 SECTION 12: TOWING LICENSE REQUIRED TO DO BUSINESS WITH THE
4 COUNTY

5 No person shall submit a bid, nor shall any contract be
6 awarded, on any county contract or agreement to recover, tow, or
7 remove vehicles or provide storage in connection with such services
8 unless that person has a valid and current towing license issued
9 pursuant to this ordinance. Any bids not in compliance with this
10 section shall be null and void.

11 SECTION 12 13. Towing Without Prior Consent of Vehicle Owner
12 or Duly Authorized Driver of Vehicle.

13 A. In addition to the other requirements of this ordinance,
14 no person shall, for compensation, recover, tow, or
15 remove a vehicle or provide storage in connection
16 therewith without the prior express instruction of the
17 vehicle owner or authorized driver, except in accordance
18 with the following:

- 19 1) Persons duly licensed under this ordinance may for
20 compensation recover, tow or remove a vehicle
21 without the prior express instruction of the
22 vehicle owner or authorized driver upon the express
23 instruction of a police officer and in accordance
24 with the terms of any contracts or agreements
25 between the licensee and the governmental entity in
26 whose jurisdiction the police officer serves.
- 27 2) Persons duly licensed under this ordinance may for
28 compensation recover, tow or remove a vehicle
29 without the prior express instruction of the
30 vehicle owner or authorized driver, upon the
31 express instruction of a property owner, or his
32 authorized agent, on whose property the vehicle is
33 disabled, abandoned or parked without authorization
34 or whose operator is unwilling or unable to remove
35 the vehicle, provided that the requirements of

1 Sections 13, 14, and 15 are satisfied.

2 B. Persons who provide services pursuant to this section
3 shall not pay or rebate money, or solicit or offer the
4 rebate of money, or other valuable consideration to
5 obtain the privilege of rendering such services.

6 C. Persons who provide services pursuant to this section
7 shall not do so when there is a person occupying the
8 vehicle.

9 D. Persons who provide services pursuant to this section
10 shall transport the vehicle directly to the storage site
11 of the person providing the service, or to such other
12 location as a police officer authorizing the tow may
13 expressly direct, and shall not keep the vehicle in any
14 temporary holding area.

15 E. Persons who provide services pursuant to this section
16 shall file and keep on record with Department a complete
17 copy of all current rates charged for the recovery,
18 towing or removal of vehicles and storage provided in
19 connection therewith. Such persons shall also display
20 prominently at each vehicle storage sight the following
21 information: a schedule of all charges and rates for
22 removal of vehicles at the request of property owners; a
23 statement that these rates do not exceed those rates
24 filed with the Department and are in accordance with the
25 provisions of this ordinance; and the rights afforded to
26 a customer pursuant to Florida Statutes. The above
27 information shall be posted prominently in the area
28 designated for the vehicle owner or his agent to transact
29 business. Such area shall provide shelter, safety and
30 lighting adequate for the vehicle owner to read the
31 posted rate schedule. Further, notice shall be posted
32 advising the vehicle owner or authorized agent of the
33 right to request and review a complete schedule of
34 charges and rates for towing services provided, at police
35 request, for the jurisdiction in which the police order

1 to tow was made, and that the firm is licensed by the
2 Department noting the Department's telephone number,
3 address and business hours.

4 F. Persons who provide services pursuant to this section
5 shall advise any vehicle owner or authorized
6 representative who calls by telephone prior to arriving
7 at the storage site of the following:

- 8 1) each and every document or other item which
9 must be produced to retrieve the vehicle;
- 10 2) the exact charges as of the time of the
11 telephone call, and the rate at which charges
12 accumulate after the call;
- 13 3) the acceptable methods of payment; and
- 14 4) the hours and days the storage site is open
15 for regular business.

16 G. Persons who provide services pursuant to this section
17 shall permit every vehicle owner or authorized
18 representative to inspect the towed vehicle upon his or
19 her arrival at the storage site before payment of any
20 charges. The vehicle owner or authorized representative
21 shall be permitted to remove from the vehicle any and all
22 personal possessions inside but not affixed to the
23 vehicle, including but not limited to, radios and
24 telephones.

25 H. Persons who provide services pursuant to this section
26 shall accept payment for charges from the vehicle owner
27 or authorized representative in any of at least two (2)
28 of the following forms:

- 29 1) cash, money order or valid traveler's check;
- 30 2) valid bank credit card; or
- 31 3) valid personal check showing on its face the
32 name and address of the vehicle owner or
33 authorized representative.

34 I. Nothing in this section shall prevent the county or any
35 jurisdiction in it from providing additional or more

1 restrictive requirements in contracts or arrangements
2 under which police officers direct and authorize the
3 recovery, towing or removal of vehicles or storage
4 provided in connection therewith.

5 SECTION 13 14. Requirements for Providing Tow Services at
6 Request of Property Owners.

7 A. Persons duly licensed under this ordinance may ~~for~~
8 ~~compensation~~ recover, tow or remove a vehicle or provide
9 storage in connection therewith upon the express
10 instruction of a property owner or authorized agent, or
11 whose property the vehicle is abandoned or parked without
12 authorization, provided that the following notice
13 requirements are satisfied:

14 1) Notice shall be prominently posted on the property
15 from which the vehicle is proposed to be removed
16 and shall fulfill the following requirements:

17 (a) A sign shall be prominently placed at each
18 driveway access or curb cut allowing vehicular
19 access to the property, within five (5) feet
20 from the public right-of-way line. If there
21 are no curbs or access barriers, signs shall
22 be posted not less than one (1) sign each
23 twenty-five (25) feet of lot frontage. The
24 sign structure shall be permanently installed
25 with the words "tow-away zone" not less than
26 three (3) feet and not more than six (6) feet
27 above ground level and shall be continuously
28 maintained on the property for not less than
29 twenty-four (24) hours prior to the towing or
30 removal of any vehicle(s).

31 (b) The notice shall clearly display:

32 1) In not less than 2-inch high, light-
33 reflective letters on a contrasting
34 background, the words "unauthorized
35 vehicles will be towed away at the owner's

1 expense." The words "tow-away zone" must
2 be included on the sign in not less than
3 4-inch high, light-reflective letters on
4 a contrasting background;

5 2) The notice shall also clearly indicate,
6 where the property owner selectively
7 causes the towing of vehicles, in not
8 less than 2-inch high, light-reflective
9 letters on a contrasting background, the
10 days of the week, and hours of the day
11 during which vehicles will be towed away
12 at the owner's expense, depending on the
13 day of the week and hour of the day the
14 vehicle is parked; and

15 3) The name and current telephone number of
16 the person or the firm performing the
17 towing service, if there exists a written
18 contract between the property owner and
19 that person for the towing of vehicles.

20 (c) The posting of notice requirements of this
21 section shall not be required where:

22 1) the property on which a vehicle is parked
23 is property appurtenant to and obviously
24 a part of a single-family type residence;
25 or

26 2) notice is personally given to the owner
27 or operator of the vehicle that the
28 property on which the vehicle is or will
29 be parked is reserved or otherwise not
30 available for unauthorized vehicles and
31 is subject to being removed at the
32 owner's expense.

33 B. The property owner or authorized agent, as referenced in
34 the contract between the property owner and the licensee,
35 shall provide express instruction to recover, tow or

1 remove the vehicle and shall date and sign such
2 instruction in the presence of the natural person
3 recovering, towing or removing the vehicle. Neither the
4 property owner nor authorized agent shall be an officer,
5 employee or agent of the person requested to recover, tow
6 or remove the vehicle. No such instruction shall be
7 considered to have been given: 1) by the mere posting of
8 the notice as required by the preceding parts of this
9 section; 2) by virtue of the mere terms of any contract
10 or agreement between a person providing towing services
11 and a property owner; 3) when the instruction occurs in
12 advance of the actual unauthorized parking of the
13 vehicle; or 4) where the instruction is general in nature
14 and unrelated to specific, individual and identifiable
15 vehicles which are already parked without authorization.

16 C. The person recovering, towing or removing a vehicle at
17 the request of a property owner or authorized agent
18 shall, within thirty (30) minutes of the completion of
19 the vehicle recovery, tow or removal, notify the police
20 department in which jurisdiction the vehicle was parked,
21 of the nature of the service rendered, the storage site
22 of the vehicle, the time the service was rendered, and
23 the make, model, color and vehicle identification number
24 of the vehicle and shall obtain the name of the person at
25 the police department to whom such information was
26 reported and note that name on the trip record.

27 D. Persons who provide services pursuant to this section
28 shall not recover, tow or remove a vehicle or provide
29 storage in connection therewith if the vehicle owner or
30 other person legally authorized to control the vehicle
31 arrives at the scene prior to recovery, towing or
32 removal, except where:

33 1) The registered owner or other legally authorized
34 person in control of the vehicle refuses or is
35 unable to remove the vehicle; or

1 2) a complete mechanical connection exists between the
2 vehicle and the towing or removal apparatus and the
3 registered owner or other person in control of the
4 vehicle refuses to pay reasonable service fee of
5 not more than one-half (1/2) of the posted rate for
6 such towing services as required by this ordinance.

7 E. Persons who provide services pursuant to this section
8 shall not store or impound a towed vehicle at a distance
9 which exceeds a ten (10) mile radius of the location from
10 which the vehicle was recovered, towed or removed unless
11 no towing business providing services under this section
12 is located within a ten (10) mile radius, in which case
13 a towed or removed vehicle must be stored at a site
14 within twenty (20) miles of the point of removal.

15 F. Persons who provide services pursuant to this section
16 shall maintain one or more storage sites, each of which
17 shall maintain a current Palm Beach County Occupational
18 License and municipal occupational or business license
19 (when applicable) and shall be open for the purpose of
20 retrieval of vehicles by owners or owners' authorized
21 agents on any day that the person providing the service
22 is open for towing purposes from at least 8:00 A.M. to
23 6:00 P.M., Monday through Friday and, when closed, shall
24 have posted prominently on the exterior of the place of
25 business a notice indicating a telephone number where the
26 operator of the site can be reached at all times. Upon
27 receipt of a telephoned request to open a site to
28 retrieve a vehicle, the operator of the site shall return
29 to the site within one (1) hour. Persons who provide
30 services pursuant to this section shall release the
31 vehicle to the owner or authorized agent within one-half
32 (1/2) hour after request is made in person.

33 G. Persons who provide services pursuant to this section
34 shall not require a vehicle owner to sign any waiver of
35 the owner's right to receive compensation for damages to

1 the vehicle.

2 SECTION 14 15. Requirements for Licensees and Property
3 Owners Requesting Tows From Property.

4 A. Each licensee must enter into a written contract with
5 every owner of private property that authorizes the
6 licensee to tow vehicles from its property. This written
7 contract shall include the names and titles of all
8 persons who are authorized to provide express
9 authorization to the licensee to remove, recover or tow
10 any vehicle from its property. Only the persons
11 referenced in the contract or by subsequent addendum to
12 the written contract have the authority to provide such
13 express authorization to the licensee. The licensee must
14 keep on file each contract that is in effect with each
15 property owner, or that was terminated within the
16 previous twelve (12) months. The Director, law
17 enforcement officers, and the owner of the vehicle towed
18 by the licensee may inspect and request a copy of any and
19 all such contracts from the licensee ~~any contract~~ during
20 business hours.

21 B. A property owner or authorized representative may cause
22 a vehicle parked without authorization upon the owner's
23 property to be recovered, towed or removed from such
24 property by a person licensed pursuant to this ordinance,
25 and shall not incur liability for the costs of recovery,
26 towing or removal or storage associated therewith, under
27 the following circumstances:

- 28 1) when the property is appurtenant to and obviously a
29 part of a single family residence;
30 2) when notice is personally given to the vehicle
31 owner or other authorized person in control of the
32 vehicle that the area in which that vehicle is
33 parked is reserved or otherwise unavailable for
34 unauthorized vehicles and subject to being removed
35 at the expense of the vehicle owner or authorized

1 person in control of the vehicle;

2 3) when the vehicle has been parked without
3 authorization on the property for more than forty-
4 eight (48) hours; or

5 4) in the case of any other unauthorized parking when
6 notice is prominently posted on the property as
7 provided in Section 13 of this ordinance.

8 C. When any property owner or authorized representative
9 causes a vehicle to be recovered, towed, removed from his
10 or her property and stored, he or she shall immediately
11 upon request, and without demanding compensation, inform
12 the vehicle owner or other authorized person in control
13 of the vehicle of the name and address of the person that
14 has recovered, towed or removed the vehicle.

15 D. No property owner or authorized representative shall
16 request the recovery, tow, removal or storage of a
17 vehicle pursuant to this section until he or she has
18 first ascertained from the person providing the service
19 the current towing license number of that person.

20 E. Nothing in this section shall permit any property owner
21 or authorized representative to request the recovery,
22 tow, or the removal of law enforcement, fire fighting,
23 rescue squad, ambulance, or other emergency vehicle
24 marked as such.

25 F. Any person who improperly causes a vehicle to be
26 recovered, towed, removed or stored shall be liable to
27 the vehicle owner or authorized representative for the
28 costs of the services provided, any damages resulting
29 from the recovery, towing, removal or storage and
30 attorney's fees and costs.

31 SECTION 15 16. Maximum Towing and Storage Rates for Providing
32 Tow Services.

33 A. The Commission shall, by resolution, establish maximum
34 rates for providing recovery, towing, removal and storage
35 services at the request of a property owner or

1 authorized representative, without the prior consent of
2 the vehicle owner or other authorized person in control
3 of the vehicle; an owner of a private lot or his or her
4 designee; or a police officer at the scene of a vehicle
5 accident or other incident requiring the removal, towing
6 and storage of a vehicle. The rates established shall be
7 uniform throughout Palm Beach County both in the
8 incorporated and unincorporated areas, except where
9 municipalities have established differing maximum rates
10 for their jurisdictions. From time to time, the rates
11 established by the Commission may be revised in
12 accordance with a rate study.

13 B. Persons who provide services pursuant to this section
14 shall not charge in excess of the maximum allowable rates
15 established by the Commission. No person providing
16 services pursuant to this section shall charge any type
17 of fee other than the fees for which the Commission has
18 established specific rates.

19 C. Each applicant for a license shall provide with his or
20 her application for a license a listing of all of his or
21 her rates and charges pursuant to this section with the
22 Department.

23 D. Each licensee shall maintain, on a form approved by the
24 Department, a rate sheet specifying all rates and
25 charges, which shall be given by the towtruck driver to
26 the requesting vehicle owner or his authorized
27 representative prior to commencing the service.

28 SECTION 16 17. Enforcement and Penalties: Civil and Criminal

29 ~~A. This ordinance shall be enforced pursuant to Ordinance~~
30 ~~No. 90-45, as amended, by personnel authorized by~~
31 ~~Department and all law enforcement officers to the extent~~
32 ~~that it is within their jurisdiction to do so.~~

33 ~~B. All violations of this ordinance shall be Class II~~
34 ~~violations (\$75.00 fine, \$8.00 court costs).~~

35 A. This ordinance shall be enforced by personnel authorized

1 by the Department, county code enforcement officials, the
2 police agencies of the various municipalities in Palm
3 Beach County and by the Palm Beach County Sheriff's
4 Office. When specifically authorized by the director,
5 this ordinance may be enforced by other Palm Beach County
6 personnel.

7 B. The County Court shall have jurisdiction over all
8 violations of this ordinance.

9 C. The Department shall maintain a system by which licensees
10 and other violators are given written notice of all
11 violations. The County Clerk shall accept designated
12 finest and issue receipts therefor.

13 D. The Department is authorized to enforce the provisions of
14 this ordinance by administrative fines not to exceed five
15 hundred dollars (\$500.00) for each violation. Any person
16 who has violated any provision of this ordinance shall be
17 finest an amount as established by the Board of County
18 Commissioners by Resolution. Each day of a continuing
19 violation shall be deemed a separate violation.

20 E. Payment shall be made, either by mail or in person, to the
21 Violations Bureau within the time specified upon the
22 citation. If such person follows this procedure, he shall
23 be deemed to have admitted to the infraction and to have
24 waived his right to a hearing on the issue of the
25 commission of the infraction.

26 F. All fines collected as a result of said citations shall be
27 paid into the County Treasury and deposited in the Fines
28 and Forfeiture Fund.

29 G. Any person who fails to make payments within the time
30 period specified on the citation shall be deemed to have
31 waived his right to pay the civil penalty as set forth in
32 the citation and shall appear before the County Court.

33 H. Any person who elects to appear before the court to
34 contest the citation shall be deemed to waive his right to
35 pay the civil penalty. The court, after a hearing, shall

1 make a finding as to whether a violation has occurred and
2
3 may impose a civil penalty not to exceed \$500.00 plus
4 court costs.

5 I. If a person fails to pay the civil penalty or fails to
6 appear in court to contest the citation, he shall be
7 deemed to have waived his right to contest the citation
8 and, in such case, a default judgement shall be entered
9 and the judge shall impose a fine at that time. If the
10 fine is paid, the case shall be dismissed. If the fine is
11 not paid, judgement may be entered up to the maximum
12 civil penalty of \$500.00 plus court costs.

13 J. Any person who refuses to sign and accept a citation
14 issued pursuant to this ordinance shall be guilty of
15 a misdemeanor of the second degree, punishable as
16 provided by sections 775.082, 775.083 or 775.084, Florida
17 Statutes.

18 K. Failure to comply with the requirements of this Ordinance
19 shall also constitute a violation of a County Ordinance,
20 including the Consumer Affairs Ordinance of Palm Beach
21 County (No. 77-10, as amended), and shall be punishable,
22 upon conviction, pursuant to Section 125.69(1), Florida
23 Statutes, by a fine not to exceed \$500.00 per violation or
24 imprisonment not exceeding sixty (60) days, or both such
25 fine or imprisonment. Each day of continuing violation
26 shall be considered a separate offense. In addition to
27 the sanctions contained herein, the County shall take any
28 other appropriate legal action, including but not limited
29 to, cease and desist orders, other administrative action
30 and requests for temporary and permanent injunctions to
31 enforce the provisions of this Ordinance. It is the
32 purpose of this Ordinance to provide additional cumulative
33 remedies.

34 L. In addition to fines, the Department is authorized to
35 enforce the provisions of this ordinance by suspension or

1 revocation of towing licenses by the director, upon
2
3 written notice and hearing as provided in this ordinance,
4 unless the licensee waives the right to a hearing.
5 Licensees are subject to suspension or revocation when it
6 shall appear that:
7 (1) The licensee has failed to comply with or has
8 violated the provisions of this ordinance; or
9 (2) The licensee has failed to comply with or has
10 violated the provisions of Sections 713.78, 715.05,
11 and 715.07, Florida Statutes;
12 (3) The licensee' driver's license or vehicle
13 registration has been suspended or revoked;
14 (4) The license was obtained by an application in which
15 any material fact was omitted or falsely stated: or
16 (5) Any towtruck or equipment owned or operated by the
17 licensee and issued a decal pursuant to this
18 ordinance has been operated in violation of this
19 ordinance or any provision of law.
20 (6) In addition, a towing license issued pursuant to
21 this Ordinance may be suspended or revoked after
22 hearing pursuant to the provisions of this
23 Ordinance, when the Director receives written
24 notification that the licensee, licensee's officer,
25 director or partner pled nolo contendere, pled
26 guilty or has been convicted of any crime designated
27 as a felony; any crime relating to motor vehicles;
28 or any crime involving the sale or possession of
29 controlled substances as defined by the Florida Rico
30 Act, section 893.03, Florida Statutes, unless the
31 civil rights of such individual has been restored;
32 or in the case of a crime relating to motor
33 vehicles, that such person has successfully
34 completed all sentences of incarceration, probation,
35 required rehabilitation activities, and payments of

1 all fines and penalties imposed.

2 **SECTION 17 18. HEARINGS AND Appeals**

3 A. **Right to Hearing and Appeal.** Any party aggrieved by the
4 action of the Director may appeal such decision to the
5 Palm Beach County Consumer Affairs Hearing Board.

6 B. **Procedure.**

7 1) All hearings required by this Ordinance for license
8 suspensions or revocations shall be preceded by a minimum
9 of ten (10) days written notice. The notice shall
10 specify the grounds for the suspension or revocation.
11 The licensee may be represented by an attorney and
12 shall be entitled to present a defense.

13 ~~1)~~ 2) The right to hearing or appeal shall be filed by
14 the ~~appellant~~ licensee or his or her attorney in the
15 Division of Consumer Affairs. The ~~appellant~~ licensee
16 or attorney shall file a written notice of appeal signed
17 by the ~~appellant~~ licensee or attorney requesting a
18 hearing and setting forth a brief statement of the
19 reasons thereof. Such appeal shall be filed within
20 ~~forty-five (45)~~ twenty (20) days of receipt of the notice
21 of denial, suspension or revocation.

22 ~~2)~~ 3) Upon receipt of such notice of appeal, the
23 Consumer Affairs Hearing Board shall set a time and place
24 for such hearing and shall give the ~~appellant~~ licensee or
25 attorney and the Director reasonable notice thereof. All
26 hearings and ~~on~~ appeals shall be scheduled and determined
27 as promptly as practicable and in no event more than
28 ~~sixty (60)~~ thirty (30) days from the date of the notice
29 of the right to a hearing or appeal was filed. Written
30 notice of the time, date, and place of the hearing of the
31 appeal by the Consumer Affairs hearing Board shall be
32 sent to the appellant no later than fifteen (15) days
33 prior to the date of the hearing. Failure of the

1 licensee to respond within the time frames specified
2 herein or failure to appear at a duly noticed hearing
3 shall be deemed a waiver of the right to hearing and
4 an admission of the acts specified in the notice.
5 Failure to claim certified mail notifying the licensee
6 of the hearing shall be construed as failure to appear at
7 a duly noticed hearing.

8 ~~3)~~ 4) The Consumer Affairs Hearing Board shall consider
9 the case record as well as the statement offered by any
10 interested party and shall consider the matter de novo
11 and shall, upon the basis of the record before it,
12 affirm, modify or reverse the decision of the Director.

13 ~~4)~~ 5) If the Consumer Affairs Hearing Board affirms the
14 decision of the Director to deny, suspend or revoke a
15 towing license, the suspension or revocation shall be
16 effective from the date of the Consumer Affairs Hearing
17 Board's order. A decision to affirm the action of the
18 Director shall constitute final agency action for
19 purposes of further appeal.

20 ~~5)~~ 6) If the Consumer Affairs Hearing Board reverses the
21 decision of the Director, it shall direct the Director to
22 issue or restore the towtruck license.

23 C. **Effect of Appeal.** The appeal of the decision of the
24 Director to suspend or revoke a towing license shall stay
25 the effective date of the suspension or revocation.

26 D. **Circuit Court Appeal.** Any person may appeal a final
27 determination of the Consumer Affairs Hearing Board
28 within thirty (30) days of the rendition of the decision
29 by filing a Writ of Certiorari in the Circuit Court of
30 the Fifteenth Judicial Circuit in and for Palm Beach
31 County, Florida.

32 **SECTION 18 19. Scope of Ordinance**

33 The provisions of this ordinance and the relevant Florida
34 Statutes, shall be the exclusive regulations applicable to the
35 recovery, towing and removal of vehicles in Palm Beach County and

1 all storage provided therewith, in both the unincorporated and
2 incorporated areas, except that this ordinance shall not apply in
3 any municipality that has adopted and maintains in effect
4 ordinances or regulations governing the same matters.

5 SECTION 19 20. Reciprocity Among Counties

6 This ordinance is based on a Model Regional Towing Ordinance
7 and has been or will be adopted in Broward, Dade, Monroe and Palm
8 Beach Counties (hereinafter referred to as "Reciprocal
9 County(ies)"). A valid license issued pursuant to this ordinance,
10 and held by a person or operator who provides towing services
11 pursuant to this ordinance and whose principal place of business is
12 located in Palm Beach County, shall do the following:

- 13 1) If a vehicle owner, or authorized representative of a
14 vehicle owner, requests an operator to pick up or deliver
15 a vehicle in a Reciprocal County, the operator will be
16 permitted to pick up, deliver, and/or drive through the
17 Reciprocal County even though the operator has not been
18 issued a license in the Reciprocal County.
- 19 2) If an operator holds a valid license in one of the
20 Reciprocal Counties and the operator has a place of
21 business or offers towing services in another Reciprocal
22 County on a continuous basis, the operator shall be
23 required to obtain a license in the county in which the
24 operator has a place of business or is offering towing
25 services on a continuous basis.

26 SECTION 20 21. Repeal of Laws in Conflict.

27 All local laws and ordinances applying to the unincorporated
28 area of Palm Beach County in conflict with any provisions of this
29 ordinance are hereby repealed.

30 SECTION 21 22. Codification.

31 The provisions of this ordinance shall become and be made a
32 part of the Code of Laws and Ordinances of Palm Beach County,
33 Florida. The Sections of this ordinance may be renumbered or
34 relettered to accomplish such, and the words "ordinance,"
35 "article," "section," "subsection," "paragraph" may be changed to

any other appropriate word to accomplish codification.

SECTION 22 23. Severability.

If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held by a court of competent jurisdiction to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance.

SECTION 23 24. Effective Date.

The provisions of this ordinance, as amended, shall be effective on ~~October 1, 1991~~ January 1, 1994.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on the 18 day of January, 1994.

**PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS**

DOROTHY H. WILKEN, CLERK
Board of County Commissioners

Linda C. Hickman
DEPUTY CLERK

By: Mary McCandless

Chairman

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY.**

By: [Signature]

County Attorney

Acknowledgment by the Department of State of the State of Florida, on the 27th day of January, ~~1991~~ 1994.

Acknowledgement from the Department of state received on the 31st day of January, 1994, at 1:36 P. M., and filed in the Office of the Clerk of the Board of County Commissioners of Palm Beach County, Florida.

(towing.ord)

STATE OF FLORIDA, COUNTY OF PALM BEACH
I, DOROTHY H. WILKEN, ex-officio Clerk of the
Board of County Commissioners certify this to be a
true and correct copy of the original filed in my office
on 1/18/94 COUNTY
DATED at West Palm Beach, FL on 2/3/94
DOROTHY H. WILKEN, Clerk
By: [Signature] D.C.
Deputy Clerk

INDEX OF
PROPOSED AMENDMENTS TO THE
PALM BEACH COUNTY "TOW TRUCK" ORDINANCE NO. 91-35

<u>PAGE</u>	<u>SECTION</u>	<u>REVISION</u>
<u>WHEREAS SECTION</u>		
1		Addition of <u>with or</u> in "Whereas" paragraph number two: ordinance will then cover consent and non-consent towing services.
<u>WHEREAS SECTION</u>		
1		Addition of another "Whereas" referencing the Board of County Commissioners' authority under Florida Statutes to regulate the towing industry.
<u>SECTION 1. DEFINITIONS</u>		
2	1.A. (5)	Addition of reference in contract of authorized agent who can provide "express authorization."
3	1.A. (6)	Addition of "load and offload" provision as another charge for services under special circumstances, and as approved by the officer on the scene.
3	1.A. (9), (10), & (11)	Deletion of words "for compensation" from definitions.
4	1.A. (14)	Addition of definition "Place of business. A licensee, who provides non-consent towing services, must maintain an actual place of business (office). (This definition was requested by the Professional Wreckers of Florida, Palm Beach Chapter).
5	1.A. (22) (formerly section 21)	Addition of "fenced, lighted and locked" to storage definition.
6	1.A. (25) (formerly section 24)	Addition of words "or haul or carry" to definition and deletion of words "for compensation" from definition.
<u>SECTION 2. TOWTRUCK CLASS SPECIFICATIONS</u>		
6	2.A. Class A	Minimum rather than maximum and deletion of "Gross Combination Weight Ratings".
7	2.B. Class B	Minimum rather than maximum and deletion of "Gross Combination Weight Ratings".
7	2.C. Class C	Minimum rather than maximum and deletion of "Gross Combination Weight Ratings".

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SECTION 2. TOWTRUCK CLASS SPECIFICATIONS (continued)

7	2.D. Class D	Minimum rather than maximum and deletion of "Gross Combination Weight Ratings".
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SECTION 3. TOWING LICENSE REQUIRED

8	3.A.	Deletion of the words "for compensation or as part of a regularly conducted business activity" (re: licensing criteria). Addition of personal, family, household or recreational use exemption.
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SECTION 4. APPLICATION FOR TOWING LICENSE; FEES

9	4.B. (1)	Deletion of "all business" and addition of "place of business" and Palm Beach County Occupational License as part of application requirements.
10	4.B (3)	Addition of requirement of State of Florida Fictitious Name Registration.

SECTION 5. ISSUANCE OF LICENSE; RENEWAL

11	5.C. (3)(a)	Addition of <u>driver's license</u> .
12 & 13	5.D.	Addition of new section providing time limit to complete application process.
13	5.F. (formerly 5.E.)	Deletion of "renewal application fees" and addition of "monies received" and expiration date of license rather than anniversary date.
14	5.G. (formerly 5.F.)	Addition of towing Business License is the property of Palm Beach County.
14	5.H. (formerly 5.G.)	Addition of new provision setting late fees for filing a renewal application after the filing deadline established by the Department.

SECTION 7. VEHICLE REGISTRATION AND VEHICLE STANDARDS

16	7.A.	Deletion of the words "for compensation; revision: decal in lower left corner of windshield rather than the upper left corner.
16 & 17	7.B. (4)	Addition of State of Florida license plate information required.
17	7.B. (6)	Addition of inspection requirement prior to the issuance of a decal.

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SECTION 8. MANIFEST, TOWING INVOICE, OR TOW SHEET

18	8.A.	Addition of "or dispatch records."
18	8.A. (6)	Addition of "and time of arrival at location."
18	8.A. (7)	Addition of "and time of arrival at destination."
18	11	Addition of new provision requiring a statement noting all "load and off-load" charges.

SECTION 9. TOWING SAFETY STANDARDS

19	9	Addition of new provision which makes it unlawful to operate a towtruck which has been "red tagged," and makes it unlawful to remove a "red tag" placed upon a vehicle.
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SECTION 12. TOWING LICENSE REQUIRED TO DO BUSINESS WITH THE COUNTY

20	12	Addition of new section which requires all towing companies to be licensed with the Department as a condition precedent to submitting a bid or maintaining a contract for such services with the County.
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SECTION 14. REQUIREMENTS FOR PROVIDING TOW SERVICES AT THE REQUEST OF PROPERTY OWNERS (formerly Section 13)

23	14.A.	Deletion of words "for compensation."
24	14.B.	Addition of authorized agent of property owner must be referenced in the contract.
26	14.F.	Addition that storage facilities must also obtain a Palm Beach County Occupational License and appropriate municipal occupational or business license and providing the days in which storage facilities must be open, "Monday through Friday."

SECTION 15. REQUIREMENTS FOR LICENSEES AND PROPERTY OWNERS REQUESTING TOWS FROM PROPERTY (formerly Section 14)

27	15.A.	Addition that written contract between property owner and towing company must list all persons who can "expressly authorize" the removal of a vehicle from the property. Addition that this office can request a copy of all such contracts.
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SECTION 17. ENFORCEMENT AND PENALTIES (formerly Section 16)

29	17.A.	Old section deleted.
29	17.B.	Old section deleted.
29 & 30	17.A.	New section: Ordinance enforced by various law enforcement and code enforcement personnel.
30	17.B	New section: The County Court shall have jurisdiction over all violations of this ordinance.
30	17.C.	New section: Provides for a system of notices of violations.

SECTION 17. ENFORCEMENT AND PENALTIES (formerly Section 16)

30	17.D.	New section: Administrative fines up to \$500 for each violation, and each day of a continuing violation shall be deemed a separate violation.
30	17.E.	New section: Payment of fines.
30	17.F.	New section: Fines collected become part of County Treasury.
30	17.G.	New section: Person failing to pay fine specified in citation waives his right to pay the civil penalty and shall appear in County Court.
30 & 31	17.H.	New section: Hearing in County Court.
31	17.I	New section: Failure to pay civil penalty, default judgement and maximum penalty may be assessed.
31	17.J.	New section: Refusal to sign and accept a citation, including penalty.
31	17.K.	New section: Violation of the Ordinance is also a violation of the of the Consumer Affairs Ordinance and County Ordinance and is also a Class II misdemeanor, punishable by a fine of \$500 and/or imprisonment not to exceed 60 days, .
31 & 32	17.L.	New section: Grounds for suspension or revocation of a Towing Business License.

SECTION 18. HEARING AND APPEAL (formerly Section 17)

33	18.A.	Addition of "Hearing and Appeal."
31 & 32	18.B.(1)	Revision: 10 day notice of hearing.

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<u>SECTION 18. HEARING AND APPEAL (formerly Section 17)</u>		
33	18.B.(2)	Revision: Appeals must be filed within 20 days of receipt of notice of suspension or revocation.
33 & 34	18.B.(3)	Revision: All hearings and appeals shall be held within 30 days, and failure of the licensee to respond to duly provided notice or failure to claim certified mail shall be construed as failure to appear.

RATE RESOLUTION R-91-1251

3	1(C)	Rate Resolution R-91-1251: Addition to "Storage Rates" provision: Storage rate charges shall be based upon each twentyfour hour increment rather than by calendar day.
4 & 5	4	New section: A schedule of fines for violating provisions of the Palm Beach County Tow Truck" Ordinance and Rate Resolution.